

Permanency Requirements: *Key Findings at the EPC Hearing and Beyond* **YOU be the Judge**

Hon. John Rodenberg, Associate Judge, Minnesota Court of Appeals

Hon. Kathleen Mottl, District Court Judge, Wright Count

Hon. Korey Wahwassuck, District Court Judge, Crow Wing County

Joanna Woolman, Director, Parent Representation Clinic, William Mitchell College of Law

Michelle Zehnder Fischer, Nicollet County Attorney's Office

Parents and Children

- Mom: Kimberly Johnson, who has 2 children and is 6 months pregnant
- Dad 1: David Johnson, member of Leech Lake Band of Ojibwe, married to Mom, father of Brady Johnson age 7
- Dad 2: Frank Swanson, alleged father of Sarah Swanson age 5 (whereabouts unknown)
- Dad 3: Unknown, father of unborn child

Petition Allegations

- Mom addicted to alcohol and meth; past treatment attempts have failed
- David Johnson is an over-the-road truck driver who is rarely home
- Last Friday, Mom began drinking early in the morning. She hit Brady on his head and arms, leaving multiple bruises, because he kept saying he was hungry and asking for something to eat
- No food in the house
- Brady and Sarah removed from home and placed in foster care
- A CHIPS petition with similar allegations filed in 2013 regarding Brady and Sarah; the children stayed in foster care for 9 months and were reunified with their mother
- Since 2013 petition, the county social services agency has offered services to the Mom and David on several occasions

Setting: EPC Hearing

- CHIPS petition alleges that Brady, Sarah, and unborn child are all in need of protection or services

Findings: You Be the Judge

- 1. Prima Facie Case:** What finding should be as to each child regarding whether the petition states a prima facie case that a juvenile protection matter exists and a child is the subject of the matter? Why?
 - ✓ A CHIPS petition can't be filed regarding an unborn child. Is there anything that can be done to protect the unborn child?
- 2. Removal:** What findings should be made regarding whether the social services agency made reasonable/active efforts to prevent removal of each child from home? Why?
- 3. Endangerment:** What findings should be regarding whether each child's health, safety, or welfare would be immediately endangered if the child is released to the care of the parent? Why?

Findings: You Be the Judge

4. **ICWA**: What findings should be made regarding whether the child is an Indian child and whether the ICWA applies? Why?
5. **Services or Conditions**: What findings should be made regarding whether there are services or conditions the court could order that would allow each child to safely return home?
6. **Evaluations**: What findings should be made regarding whether orders are needed for examinations, evaluations, or immediate services for mom? For any of the dads? For the children?

Findings: You Be the Judge

7. **Placement**: What findings should be made regarding whether responsible relatives or other responsible adults are available to provide services or to serve as placement options if licensed?

8. **Visitation**: What findings should be made regarding visitation between each child and Mom? Each child and any of the dads? Between the children, if they are separated?

Child Safety, Permanency, Wellbeing Checklist

Missouri Judicial Branch Missouri Department of Human Services
Children's Justice Initiative

CHILD SAFETY, PERMANENCY, AND WELLBEING CHECKLIST Questions to Ask Regarding Every Child Involved in the Child Protection Court System¹

What happens during the first months and years of life matters a lot, not because this period of development provides an indelible blueprint for adult wellbeing, but because it sets either a sturdy or fragile stage for what follows in adolescence and adulthood.²

1. TRAUMA-INFORMED PRACTICE

- | | |
|------|--|
| 1.01 | Has the child has received a trauma screening that identifies a full picture of trauma exposure to the greatest extent possible? ³ Did the trauma screening address the child's culture and history (including historical trauma)? If relevant, are the services/interventions trauma-informed? |
| 1.02 | Have the child's immediate trauma needs and concerns been addressed? ³ What does the child say would help? What does the resource family (if applicable) say would help? |
| 1.03 | What trauma triggers exist for the child? What mechanisms are in place to help the child manage reactions to trauma triggers? ³ |
| 1.04 | Have any child welfare system interventions been put in place that cause additional trauma for the child (e.g., moves in foster care or school) and should be stopped? ³ |

2. OUT-OF-HOME PLACEMENT

- | | |
|------|---|
| 2.01 | If the child is in out-of-home placement, has the social services agency prepared an out-of-home placement plan jointly with the parent(s) and in consultation with the child's GAL, child's tribe, and child's foster parent, and, where appropriate, the child. ⁴ Has the out-of-home placement plan been filed with the court within 30 days of the child's court-ordered placement? ⁵ |
| 2.02 | If the child is in out-of-home placement, is the child placed in the least restrictive, most family-like, and most culturally-appropriate setting with a close proximity to the home of the parent? ⁶ If the child is an Indian child, have the ICWA placement preferences been met? ⁷ If not, what setting is more family-like and more culturally appropriate? |
| 2.03 | Is the child placed with relatives? ⁸ Has the social worker completed a reasonable and comprehensive search of both the paternal and maternal relatives? ⁹ If a comprehensive relative search has not been completed, what plans does social services have to complete a relative search? |
| 2.04 | Is the child placed with siblings? ¹⁰ If not, is there a safety or other appropriate reason why the siblings are not placed together? Is there a plan to re-unite the siblings? If not, why not? What additional efforts, if any, should be made to place siblings together? |

Information Sheet

INFORMATIONAL SHEET

Client Name: _____ Court File No.: _____

Court Date: _____

This is to help you get started. This is **NOT** a substitute for your **CASE PLAN**. The following is a list of things that you need to know. A **COURT ORDER** from the Judge will be sent to you within the next 10 days.

You have just attended a CHIPS (Child in need of Protection or Services) proceeding. Your proceeding was a/an:

- Emergency Protective Care Hearing
- Admit/Deny Hearing

The people who will help you work on your *Case Plan* are:

- Judge Robert Docherty
- Judge Allison Krehbiel
- Judge Todd Westphal
- _____

The same Judge will likely hear all of your court appearances. Only by emergency or agreement of all people concerned would another Judge preside over your court hearings.

Your next court hearing is on: _____ **at** _____

You must be at the Courthouse at least 15 minutes before your hearing. It is expected that the lawyers, Guardian ad Litem and Social Worker will be available at that time to discuss your case, if necessary.

Your Lawyer:

- Greg Handevit
- Michael Mountain
- Adam Klotz

Questions?

